IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 18831 of 2006
Date of decision: November 30, 2006

Malkiat Singh and Anr .....Petitioners

Versus

State of Punjab and Ors. .....Respondents

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr. Girish Agnihotri, Advocate
for the petitioners

ASHUTOSH MOHUNTA, J (Oral)

The petitioners have prayed for quashing of order dated 22.08.2006 (Annexure P-5) passed by the Deputy Commissioner (exercising the powers of Commissioner, Fatehgarh Sahib), by which the petitioners have been held to be in illegal possession of the suit land and have been ordered to be evicted.

The facts of the case are that the Executive Engineer, Bhakra Main Line Division Patiala filed an application for eviction against the predecessor-in-interest of the petitioners with regard to land measuring 42 kanals 7 marlas, situated in the revenue estate of Village Rattangarh, District Fatehgarh Sahib. It was averred that the land in dispute had been given to the predecessor-in-interest of the petitioners on yearly basis and the lease expired on 31.03.1987 . It was also averred that since then the predecessor-in-interest of the petitioners had not handed over the vacant possession of the land, which was leased out to them. The Collector, Rupnagar, vide his order

dated 24.07.1998 (Annexure P-3) held that as the predecessor-in-interest of the petitioners had been paying the lease money for the years 1987-88, 1989-90, therefore, he had acquired the status of tenants and, hence he could not be evicted from the land in question under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973. Accordingly, the petition for eviction of the petitioner was dismissed.

Respondent No. 3 filed appeal against the said order, which has been accepted by the Commissioner.

Learned counsel for the petitioners contends that although the lease was for a period of one year but as respondent No. 3 had accepted the lease amount for the years 1987-88, 1989-90, therefore, the predecessor-in-interest of the petitioners has become a tenant holding over and as such, his eviction cannot be sought under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973.

Learned counsel for the petitioners has also placed reliance on the jamabandi for the years 1982-83 onwards, wherein, the predecessor-in-interest of the petitioners has been recorded as '*Gair Marusi Chakotedar*'.

A perusal of the impugned order shows that the land measuring 42 kanals 7 marlas was taken by the predecessor-in-interest of the petitioners on lease from respondent No. 3 and the lease had expired on 31.03.1987, thereafter, the petitioner has not paid any lease amount to the lessor after the year 1990 onwards. When the lease period of a *Pateda*r, which is for a fixed period, expires then such a lessee can always be evicted under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973, as held in case reported in 1999 AIR 70 (P&H) (Full Bench).

In the present case, as the period of lease had expired on 31.03.1987, therefore, the petitioners is in unauthorized occupation of the suit land since then and, that he has rightly been ordered to be evicted vide impugned order passed by the Commissioner.

In view of the above, we find no infirmity in the impugned order and accordingly the present writ petition is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

(NIRMAL YADAV)
JUDGE

November 30, 2006
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